

SEVERANCE V. PATTERSON

Frequently Asked Questions



What does the decision in the Severance case mean for the Texas coast?

The Texas Supreme Court's opinion in *Severance vs. Patterson* complicates the future of public access to the Texas coast, but has limited impact on how the Texas coast is managed today. The public is still free to visit the state-owned beach anytime they want to, anywhere along Texas' 367 miles of Gulf coastline.

The state-owned beach, commonly referred to as the "wet beach," is where the high tide usually reaches on the beach, or what's known as the line of mean high tide. The dry, sandy area between the high tide line and where the plants begin to grow in the dunes, or the line of vegetation, is usually privately owned but may be subject to the public beach easement.

Under the Texas Open Beaches Act, the public still has a free and unrestricted right to access the "wet beach." The public may also use the beach from the line of mean low tide to the line of vegetation, regardless of ownership, where the public has acquired an easement.

The Texas Supreme Court opinion says erosion that suddenly changes the location of the dry beach, such as erosion caused by storms or hurricanes, does not move the established public easement from its original location. However, that public easement may "move according to gradual and imperceptible changes" that are part of a dynamic coast.

The Supreme Court's ruling did not say there is no public easement on West Galveston.

Is the Open Beaches Act still in effect?

Yes, but the opinion by the Texas Supreme Court creates an uncertain future by rejecting how Texas traditionally had determined the extent of the public beach easement. This uncertainty will prompt further litigation, hinder the state from investing public money to protect what may be private beaches and delay coastal cleanup after the next big storm as administrators sort out what is public and what is private. All of this may hamper the public's ability to visit the beach.

But the Supreme Court's opinion did not rule that there is no public beach easement, even in West Galveston, nor did it invalidate the Open Beaches Act.

How does the decision affect beach access?

Local governments have beach access and dune protection plans that are still in effect. These plans define access points, parking requirements and vehicular access for area beaches. At a minimum, the public still has access to the "wet" beach and has access to the dry beach in areas where the public has acquired an easement.

Is the Dune Protection Act still in effect?

Yes. The laws protecting dunes are separate from the state's Open Beaches Act. Anyone wanting to build along the coast where a beachfront construction certificate or dune protection permit is required, must still obtain a permit or certificate from their local government before beginning construction.

Can the GLO still pay for beach maintenance?

Yes. The GLO can provide reimbursement for cleaning state-owned beaches. Funding may also be available for areas where there is a public beach easement or as necessary to protect public health and public safety.

The Texas General Land Office Adopt-A-Beach program will continue to rally volunteers twice a year to clean Texas beaches.

Will the GLO still provide funding and/or assistance in cleaning the beach after hurricanes and other storm events?

State-owned beaches are eligible for state and federal funding after a storm event. Funding for cleaning privately owned beaches where the public does not have an established easement may only be available in limited circumstances.

Can the state and federal governments still help with erosion issues/projects on the West End?

No. Public money cannot be used to benefit only a private land owner. The General Land Office will not provide grant funds for erosion projects on private property without a rolling easement that grants public access to the beach.

May I build a bulkhead to protect my coastal property?

Generally, no, and especially where bulkheading can adversely effect neighboring properties and the beach itself. All coastal construction must comply with all state and local building codes, as well as the beach and dune protection rules.

May I fence off my part of the beach?

Generally, no, and especially where fences may block established access to the public beach or create potential health and safety risks.

Who do I call if I think someone is restricting public beach access?

Call the Texas General Land Office Beach Access Hotline at 512.475.0773.



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